

**Dome Associates, Employer Petitioner and United Service Employees Union, Local 377.** Case AO-317

January 31, 1995

ORDER

BY MEMBERS STEPHENS, COHEN, AND  
TRUESDALE

Pursuant to Sections 102.98(a) and 102.99 of the National Labor Relations Board's Rules and Regulations, on December 15, 1994, Dome Associates (the Employer) filed a petition for Advisory Opinion about whether the Board would assert jurisdiction over its operations. In pertinent part, the petition alleges as follows:

1. A proceeding, Case SE-58849, is currently pending before the New York State Employment Relations Board (NYSERB) in which United Service Employees Union, Local 377 (the Union) is seeking certification of a one-member unit at 325 West 51st Street, a 20-unit residential apartment building managed by the Employer that also includes one commercial space.<sup>1</sup>

2. The Employer, a partnership, is engaged in real estate management and maintains its principal place of business at 169 West 80th Street, New York, New York.

3. During the past 12-month period, the Employer had gross revenues in excess of \$1 million and purchased materials or services valued in excess of \$50,000 directly from outside the State of New York.

<sup>1</sup> The petition, at par. 4, cites Case SE-58849 but makes reference to its Exh. A which relates to Case SU-58849, regarding a charge alleging an unfair labor practice before the NYSERB. Whether there is an unfair labor practice proceeding or a representation proceeding (or both) pending before the NYSERB, there is a proceeding pending before the NYSERB.

4. The Union has neither admitted nor denied the commerce data, nor has that data been considered by the New York State Employment Relations Board.

5. There are no representation or unfair labor practice proceedings involving the Employer pending before the Board.

On January 4, 1995, the Union filed an opposition to the petition for Advisory Opinion, asserting that the petition must be dismissed or denied on the ground that the Union has filed an unfair labor practice charge with the Board.<sup>2</sup> The Union further stated that it could neither admit nor deny the commerce data submitted by the Employer.

On January 10, 1995, the Board issued a Notice to Show Cause why the petition for Advisory Opinion should not be dismissed or denied. No responses were filed.

Having duly considered the matter, we deny the Employer's petition for an Advisory Opinion on the ground that there is an unfair labor practice proceeding pending before the Board's Regional Office in which all jurisdictional issues may be resolved. The Board's longstanding policy, based on sound principles of administrative efficiency and economy, is that a petition for Advisory Opinion will not be entertained where, as here, an unfair labor practice proceeding is pending and there is no indication of a need for a more expeditious jurisdictional determination.<sup>3</sup>

Accordingly, as there is no indication in the instant proceeding that a more expeditious jurisdictional determination is needed, we deny the petition for Advisory Opinion.

<sup>2</sup> The charge was filed by the Union on January 6, 1995, in Case 2-CA-28084, alleging that Dome Associates discharged Trevor Watts because of his union activities, in violation of Sec. 8(a)(3) and (1) of the Act.

<sup>3</sup> See *Humboldt General Hospital*, 297 NLRB 258 (1989).